WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

ENROLLED

House Bill No. 2347
(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
(By Request of the Executive)

Passed February 24, 1999

In Effect Ninety Days from Passage
ENROLLED

H. B. 2347

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)
[BY REQUEST OF THE EXECUTIVE]

[Passed February 24, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring state law-enforcement and corrections agencies to deliver persons who signed a waiver of extradition prior to their release and who have violated the terms of their probation, parole, bail or other conditional release to the demanding state without the requirement of a governor's warrant; setting forth the documentation required of the demanding state before the person is delivered to the demanding state; and clarifying the governor's authority to refuse a demand at his or her instance where a waiver has been executed.

Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. THE GOVERNOR.

§5-1-11. Immunity from service of civil process; waiver of extradition proceedings; nonwaiver of rights of state; trial on other charges after return.
(a) A person brought into this state by, or after waiver of, extradition based on a criminal charge, shall not be subject to service of personal process in civil actions until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(b) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in subsections (a) and (d), section eight of this article, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record, within this state a writing which states that he consents to return to the demanding state: Provided, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights with respect to the issuance and service of a warrant of extradition and with respect to obtaining a writ of habeas corpus as provided for in subsection (a), section nine of this article.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and be filed by him in the office of the secretary of state. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, That nothing in this subdivision shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(c) Prior Waiver of Extradition. Notwithstanding any other provision of this code, a law-enforcement or correction agency in the state of West Virginia holding a person who is charged by another jurisdiction with a violation of his or her terms of
probation, parole, bail or other form of conditional release in
another jurisdiction which is demanding the return of such
person shall immediately deliver the person to the duly autho-
rized agent of the demanding state, and without the require
ment of a governor’s warrant, if such person has previously executed
a waiver of extradition as a condition of his or her current terms
of probation, parole, bail or other form of conditional release in
the demanding state and upon receipt of the following docu-
mentation from the demanding state:

(1) A certified copy of the previously executed waiver of
extradition being held by the officials in the demanding state or
an electronically or electromagnetically transmitted facsimile
thereof;

(2) A certified copy of an order or warrant from the
demanding state seeking the return of the person or an electron-
ically or electromagnetically transmitted facsimile thereof;

(3) A photograph, fingerprints or other evidence which
identifies the person held by the law-enforcement or correction
agency as the person who signed the waiver of extradition and
who is named in the order or warrant, or an electronically or
electromagnetically transmitted facsimile thereof.

(d) Nothing in this article contained shall be deemed to
constitute a waiver by this state of its right, power or privilege
to try such demanded person for an offense committed within
this state, or of its right, power or privilege to regain custody of
such person by extradition proceedings or otherwise for the
purpose of trial, sentence or punishment for any offense
committed within this state, nor shall any proceedings had
under this article which result in, or fail to result in, extradition,
be deemed a waiver by this state of any of its rights, privileges
or jurisdiction in any way whatsoever.

(e) After a person has been brought back to this state by, or
after waiver of, extradition proceedings, he may be tried in this
state for any offense which he may be charged with having
committed here as well as that specified in the requisition for
his extradition.
(f) Nothing in this section shall be construed to limit the authority of the governor, at his or her own instance, to refuse to honor an extradition demand from another jurisdiction.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _______ approved this the _______ day of _______, 1999.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/4/99
Time 9:53 AM